IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 1756 of 2000

For Approval and Signature:

Hon'ble MR.JUSTICE PRADIP KUMAR SARKAR

==========

1. Whether Reporters of Local Papers may be allowed to see the judgements? : NO

2. To be referred to the Reporter or not? : NO

3. Whether Their Lordships wish to see the fair copy of the judgement? : NO

4. Whether this case involves a substantial question of law as to the interpretation of the Constitution of India, 1950 of any Order made thereunder? : NO

5. Whether it is to be circulated to the Civil Judge? : NO

@

KETUL METAL INDUSTRIES

Versus

VIJAY CO. OP. BANK LIMITED

Appearance:

1. Special Civil Application No. 1756 of 2000

MR PS PATEL for Petitioner No. 1-5

Mr.N.R. Joshi for MR IM BENGALI for Respondent No. 1

UNSERVED-EXPIRED (R) for Respondent No. 2

RULE UNSERVED for Respondent No. 3,5

RULE SERVED for Respondent No. 4

SERVED BY AFFIX.-(R) for Respondent No. 6

CORAM : MR.JUSTICE PRADIP KUMAR SARKAR

Date of decision: 23/08/2001

ORAL JUDGEMENT

I have heard Mr.P.S. Patel, learned Counsel appearing on behalf of the petitioners and Mr.N.R.Joshi, learned Counsel for Mr.I.M.Bengali, learned Counsel appearing on behalf of the respondent No.1 Bank.

The present petition has been filed against the interim order passed by the Tribunal on 4-2-2000 in Appeal No.644/1999. The Tribunal in the interim order refused to stay the order of the Board of Nominees. On the contrary, the Tribunal directed the petitioners to deposit Rs.5,40,000/- within 15 days before the Board of Nominees and only thereafter, they will be permitted to contest the suit before the Board of Nominees. In the meantime, certain developments have taken place. After filing the present petition against the interim order, the Tribunal by an order dated 22-3-2001 dismissed the main Appeal for default under Regulation 15. Since the main Appeal has been disposed of there cannot be a separate existence of the interim order and, therefore, the present application has become infructuous. The learned Counsel for the petitioners, however, submits that the petitioners will file an application for restoration of the Appeal No.644/1999. If the Appeal is restored and interim order is revived, then the petitioners may also file an application for revival of the present application.

Accordingly, the present petition is disposed of as become infructuous. Rule is discharged. No order as to costs.

23-8-2001 (P. K. Sarkar, J.)

vinod